



March 28, 2003

ENGROSSED SENATE BILL No. 454

DIGEST OF SB 454 (Updated March 25, 2003 4:33 PM - DI 84)

Citations Affected: IC 8-10; IC 8-16.

Synopsis: Port commission powers. Authorizes the Indiana port commission to construct and finance: (1) maritime and nonmaritime port projects throughout Indiana for the transfer of goods and passengers between all modes of transportation; and (2) nonport projects to promote economic growth and development throughout Indiana. Specifies the powers of the commission with respect to these projects, including the conditions under which the commission may issue bonds and enter into various agreements. Prohibits the inclusion of language in a port authority revenue bond that would create a "moral obligation" on the part of the state to pay any part of the bond. Exempts projects to be leased to a private party from certain public works laws. Makes certain provisions in IC 8-10-1 applicable to IC 8-10-4 (self-liquidating port projects). Requires the transportation finance authority to purchase the bridge crossing the Wabash River on State Highway 66 if federal funding is available to cover certain costs required to repair and operate the bridge. Provides for the operation of the bridge under the laws governing the operation and financing of bridges into adjoining states. Allows money collected from the use of the bridge in Mount Vernon to be used for the acquisition of the bridge on State Highway 66.

Effective: July 1, 2003.

**Kenley, Rogers, Broden, Ford,
Simpson, Lubbers**

(HOUSE SPONSORS — WEINZAPFEL, MURPHY, COCHRAN, RUPPEL)

January 21, 2003, read first time and referred to Committee on Economic Development and Technology.

February 18, 2003, amended, reported favorably — Do Pass.

February 24, 2003, read second time, ordered engrossed.

February 25, 2003, engrossed. Read third time, passed. Yeas 46, nays 3.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Interstate and International Cooperation.

March 27, 2003, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

ES 454—LS 7853/DI 44+



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March 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 454

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the
3 agricultural, industrial and commercial development of the state, and
4 to provide for the general welfare by the construction and operation, in
5 cooperation with the federal government, or otherwise, of a modern
6 port ~~on Lake Michigan and/or the Ohio River, and/or the Wabash~~
7 ~~River,~~ **system** with terminal facilities to accommodate water, rail,
8 truck, ~~and~~ air-borne, **and other forms of** transportation, the Indiana
9 Port Commission is hereby authorized and empowered to construct,
10 maintain and operate, in cooperation with the federal government, or
11 otherwise, at such ~~location on Lake Michigan and/or the Ohio River,~~
12 ~~and/or the Wabash River,~~ **locations** as shall be approved by the
13 governor, **projects, including without limitation** public ports with
14 terminal facilities and traffic exchange points **throughout Indiana** for
15 all forms of transportation, giving particular attention to the benefits
16 which may accrue to the state and its citizens from ~~the St. Lawrence~~
17 ~~Seaway,~~ **all forms of transportation**, and to issue ~~port~~ revenue bonds

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of the state payable solely from revenues, to pay the cost of such projects. **The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

SECTION 2. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the Indiana Port Commission created by section 3 of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include **any combination of:**

(1) any place or places on Lake Michigan, the Ohio River, ~~and the Wabash River,~~ **or other water bodies,** natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded or accommodated; **and**

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The ~~words "port word~~ "project" shall include:

(1) any facilities, adjuncts and appurtenances necessary **or useful** to operate a modern port, **whether or not permanently situated at the port,** including:

(A) the dredging of approaches ~~thereto, and including, among other things, but not limited to~~ **to a port; and**

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or

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control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port; **and**

(2) any other project located in Indiana, other than at a port, that the commission finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or port project shall embrace means:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for ~~such~~ construction;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;

(4) the cost of relocating public roads;

(5) **the cost of land or easements therefor, for roads;**

(6) the cost of all machinery and equipment;

(7) financing charges;

(8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;

(9) **the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;**

(10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(11) administrative expense; ~~and such~~

(12) other expenses as may be necessary or incident to the **acquisition or** construction of the project, the financing of ~~such~~ **the acquisition or** construction, and the placing of the project in operation, **including the amount authorized in the resolution of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds; and**

(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of



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a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of port commission revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys and all other funds coming into the possession or under the control of the commission by virtue of the terms and provisions of this ~~chapter~~, **article**, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township or other political subdivision.

SECTION 3. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this ~~chapter~~ **article** in the construction, operation and maintenance of a port **or** project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965 and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977 for one (1) member and July 1, 1979 for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed



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1 to fill a vacancy shall be appointed to serve only for the unexpired
 2 term, and a member of the commission shall be eligible for
 3 reappointment. The governor may at any time remove any member of
 4 the commission for misfeasance, nonfeasance, or malfeasance in office.
 5 The members of the commission shall, within ten (10) days after their
 6 appointment, meet and qualify by subscribing an oath to discharge
 7 honestly and faithfully the duties of their office as members of such
 8 commission. The commission shall thereafter elect one (1) of the
 9 members as chairman and another as vice-chairman, and shall appoint
 10 a secretary-treasurer who need not be a member of the commission.
 11 Four (4) members of the commission shall constitute a quorum and the
 12 affirmative vote of four (4) members shall be necessary for any official
 13 action taken by the commission. No vacancy in the membership of the
 14 commission shall impair the rights of a quorum to exercise all the
 15 rights and perform all the duties of the commission.

16 (c) Before the issuance of any ~~port~~ revenue bonds under the
 17 provisions of this ~~chapter~~, **article**, each appointed member of the
 18 commission shall give a surety bond to the state in the penal sum of
 19 twenty-five thousand dollars (\$25,000) and the secretary-treasurer shall
 20 give a surety bond to the state in the penal sum of fifty thousand dollars
 21 (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the
 22 faithful performance of the duties of the office, to be executed by a
 23 surety company authorized to transact business in the state as surety
 24 and to be approved by the governor and filed in the office of the
 25 secretary of state.

26 (d) Each appointed member of the commission shall receive an
 27 annual salary of seven thousand, five hundred dollars (\$7,500), payable
 28 in monthly instalments. However, no members of such commission as
 29 appointed hereunder shall receive any salary except a per diem as fixed
 30 and approved by the budget director until said commission is able to
 31 carry on the full operations as intended by this chapter, and the budget
 32 director, subject to the approval of the governor of the state of Indiana,
 33 shall determine when said salaries for said commission members shall
 34 commence. ~~The governor shall, however, appoint said members as~~
 35 ~~herein provided within a period of sixty (60) days following the~~
 36 ~~effective date of this chapter.~~

37 (e) Each member shall be reimbursed for his actual expenses
 38 necessarily incurred in the performance of his duties.

39 (f) All expenses incurred in carrying out the provisions of this
 40 ~~chapter article~~ shall be payable solely from funds provided under the
 41 authority of this ~~chapter article~~ and no liability or obligation shall be
 42 incurred by the commission hereunder beyond the extent to which



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1 moneys shall have been provided under the authority of this ~~chapter~~.
 2 **article.**

3 SECTION 4. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under
 5 the provisions of this ~~chapter~~ **article** shall not be deemed to constitute
 6 a debt of the state or of any political subdivision thereof or a pledge of
 7 the faith and credit of the state or of any such political subdivision, but
 8 such bonds shall be payable solely from the funds pledged for their
 9 payment as authorized in this ~~chapter~~, **article**, unless such bonds are
 10 refunded by refunding bonds, issued under the provisions of this
 11 chapter, which refunding bonds shall be payable solely from funds
 12 pledged for their payment as authorized herein. All such revenue bonds
 13 shall contain on the face thereof a statement to the effect that the bonds,
 14 as to both principal and interest, are not an obligation of the state of
 15 Indiana, or of any political subdivision thereof, but are payable solely
 16 from revenues pledged for their payment. All expenses incurred in
 17 carrying out the provisions of this ~~chapter~~ **article** shall be payable
 18 solely from funds provided under the authority of this ~~chapter~~ **article**
 19 and nothing in this ~~chapter~~ **article** contained shall be construed to
 20 authorize the commission to incur indebtedness or liability on behalf
 21 of or payable by the state or any political subdivision thereof. **Except**
 22 **as specifically authorized by the general assembly, the commission**
 23 **may not pledge, in any form, to:**

- 24 (1) seek funding from the state in the event of any default in
 25 the payment of revenue bonds; or
 26 (2) specify, in any form, in an agreement related to revenue
 27 bonds that money appropriated by the general assembly may
 28 or shall be deposited in a debt service fund or reserve fund for
 29 the revenue bonds;

30 **if the revenue bonds or agreement relate to a project that is not**
 31 **part of a project related to property that qualifies as a port under**
 32 **section 2(b)(1) of this chapter.**

33 SECTION 5. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission
 35 may:

- 36 (1) prepare sketches, plans, and descriptive material relating to
 37 ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible,
 38 to compile data and prepare literature as to the necessity or
 39 advisability thereof, and to do other acts and things it considers
 40 necessary to promote ~~such~~ **public port or port the ports or**
 41 projects and deems to be in the public interest;
 42 (2) carry on, in its discretion, negotiations and enter into



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agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire a suitable ~~site~~ ~~sites~~ for ~~such public port or port ports or~~ projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port ~~or~~ project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 6. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized and empowered **to do the following:**

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal which shall not be the seal of the state of Indiana.

(3) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(4) To sue and be sued, and to plead and be impleaded in its own name. However, actions at law against the commission shall be brought in the circuit court of the county in which the principal office of the commission is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the commission by leaving a copy thereof at the principal office of the commission with the person in charge thereof or with the secretary of the commission. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is



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served upon the attorney general of Indiana.

(5) To acquire, lease, construct, maintain, repair, police, and operate a port or ~~port~~ project as provided in this chapter, and to establish rules and regulations for the use of ~~such the~~ port or ~~port~~ project, and other property subject to the jurisdiction and control of the commission.

(6) To issue ~~port~~ **both taxable and tax exempt** revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or ~~port~~ project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or ~~port~~ project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or ~~port~~ project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the a port property:~~ **or project.**

(11) To lease to others for development or operation such portions of any port or ~~port~~ project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars (\$25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana,~~ **the county where the construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be

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1 accompanied by a sufficient bond or certified check on a solvent
 2 bank that if the bid is accepted a contract will be entered into and
 3 the performance of its proposal secured. The commission may
 4 reject any and all bids. A bond with good and sufficient surety as
 5 shall be approved by the commission, shall be required of all
 6 contractors in an amount equal to at least fifty percent (50%) of
 7 the contract price conditioned upon the faithful performance of
 8 the contract.

9 **(13) To construct, assemble, or otherwise build, own, lease,**
 10 **operate, manage, or otherwise control any project throughout**
 11 **Indiana for the purpose of promoting economic growth and**
 12 **development throughout Indiana, retaining existing**
 13 **employment within Indiana, and attracting new employment**
 14 **opportunities within Indiana.**

15 ~~(13)~~ **(14)** To employ an executive director or manager, consulting
 16 engineers, superintendents, and such other engineers, construction
 17 and accounting experts, attorneys, and other employees and
 18 agents as may be necessary in its judgment, and to fix their
 19 compensation, but no compensation of any employee of the
 20 commission shall exceed the compensation of the highest paid
 21 officer or employee of the state. ~~However, the employment of an~~
 22 ~~attorney shall be subject to such approval of the attorney general~~
 23 ~~as may be required by law.~~

24 ~~(14)~~ **(15)** To receive and accept from any federal agency grants
 25 for or in aid of the construction of any port or ~~port~~ project, and to
 26 receive and accept aid or contributions from any source of either
 27 money, property, labor, or other things of value, to be held, used,
 28 and applied only for the purposes for which such grants and
 29 contributions may be made.

30 ~~(15)~~ **(16)** To provide coverage for its employees under the
 31 provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

32 ~~(16)~~ **(17)** To do all acts and things necessary or proper to carry out
 33 the powers expressly granted in this ~~chapter~~ **and article.**

34 ~~(17)~~ **(18)** To hold, use, administer, and expend such sum or sums
 35 as may herein or hereafter be appropriated or transferred to the
 36 commission. **However, this subdivision does not authorize the**
 37 **commission to include any language in a revenue bond that**
 38 **would create a moral obligation on the part of the state to pay**
 39 **any part of the obligation related to a project that is not part**
 40 **of a project related to property that qualifies as a port under**
 41 **section 2(b)(1) of this chapter in the event of a default by the**
 42 **commission.**



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SECTION 7. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it
 necessary to change the location of any portion of any public road,
highway, railroad, or public utility facility, it shall cause the same to
 be reconstructed at such location as the division of government having
 jurisdiction over such road, highway, railroad or public utility facility
 shall deem most favorable and of substantially the same type and in as
 good condition as the original road, highway, or railroad or public
 utility facility. The cost of such reconstruction, relocation, or removal
 and any damage incurred in changing the location of any such road,
 highway, railroad, or public utility facility, shall be ascertained and
 paid by the commission as a part of the cost of ~~such the port or port~~
 project. The commission shall have authority to petition the circuit
 court of the county wherein is situated any public road or part thereof,
 affected by the location therein of any port or ~~port~~ project, for the
 vacation or relocation of such road or any part thereof with the same
 force and effect as statutes in effect on March 2, 1961, to the
 inhabitants of any municipality or governmental subdivision of the
 state. The proceedings upon such petition, whether it be for the
 appointment of appraisers or otherwise, shall be the same as provided
 by statutes in effect on March 2, 1961, for similar proceedings upon
 such petitions. In addition to the foregoing powers, the commission and
 its authorized agents and employees, after proper notice, may enter
 upon any lands, waters, and premises in the state for the purpose of
 making surveys, soundings, drillings, and examinations as are
 necessary or proper for the purposes of this ~~chapter~~, **article**, and such
 entry shall not be deemed a trespass, nor shall an entry for such
 purpose be deemed an entry under any condemnation proceedings
 which may be then pending; provided, that before entering upon the
 premises of any railroad, notice shall be given to the superintendent of
 such railroad involved at least five (5) days in advance of such entry,
 and provided, that no survey, sounding, drilling, and examination shall
 be made between the rails, or so close to a railroad track, as would
 render said track unusable. The commission shall make reimbursement
 for any actual damage resulting to such lands, waters, and premises and
 to private property located in, on, along, over, or under such lands,
 waters and premises, as a result of such activities. The state of Indiana,
 subject to the approval of the governor, hereby consents to the use of
 lands owned by it, including lands lying under water and riparian
 rights, which are necessary or proper for the construction or operation
 of any port or ~~port~~ project, provided adequate compensation is made for
 such use. The commission shall also have power to make reasonable

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1 regulations for the installation, construction, maintenance, repair,
 2 renewal, relocation, and removal of tracks, pipes, mains, conduits,
 3 cables, wires, towers, poles, and other equipment and appliances
 4 (referred to in this section as "public utility facilities") of any public
 5 utility in, on, along, over, or under any port or ~~port~~ project. Whenever
 6 the commission shall determine that it is necessary that any such public
 7 utility facilities which are, on or after March 2, 1961, located in, on,
 8 along, over, or under any ~~such~~ port or ~~port~~ project should be relocated
 9 or should be removed from ~~such the~~ port or ~~port~~ project, the public
 10 utility owning or operating such facilities shall relocate or remove the
 11 same in accordance with the order of the commission. ~~provided;~~
 12 However, ~~that~~ the cost and expenses of such relocation or removal,
 13 including the cost of installing such facilities in a new location or new
 14 locations, and the cost of any lands, or any rights or interests in lands,
 15 and any other rights, acquired to accomplish such relocation or
 16 removal, shall be ascertained and paid by the commission as a part of
 17 the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in
 18 which such equipment or facilities are located within the limits of
 19 highways or public thoroughfares being constructed, reconstructed, or
 20 improved under the provisions of this chapter. In case of any such
 21 relocation or removal of facilities, the public utility owning or
 22 operating the same, its successors or assigns, may maintain and operate
 23 such facilities, with the necessary appurtenances, in the new location
 24 or new locations, for as long a period, and upon the same terms and
 25 conditions, as it had the right to maintain and operate such facilities in
 26 their former location or locations subject, however, to the state's right
 27 of regulation under its police powers.

28 SECTION 8. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have
 30 power to adopt such by-laws, rules and regulations as it may deem
 31 advisable for the control and regulation of any port or ~~port~~ project or
 32 traffic on any port or ~~port~~ project, for the protection of and preservation
 33 of property under its jurisdiction and control, and for the maintenance
 34 and preservation of good order within the property under its control,
 35 and such by-laws, rules and regulations shall be published in a
 36 newspaper of general circulation in Marion County, Indiana, and in
 37 such other manner as the commission shall prescribe; however, such
 38 rules and regulations shall provide that public officers shall be afforded
 39 ready access, while in performance of their official duty, to all property
 40 under the jurisdiction or control of the commission without the
 41 payment of tolls.

42 (b) Such rules and regulations adopted under this section shall be



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1 adopted under IC 4-22-2.

2 (c) A person who violates a rule or regulation of the commission
3 commits a Class C infraction.

4 SECTION 9. IC 8-10-1-10 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The commission
6 is hereby authorized and empowered to acquire by purchase whenever
7 it shall deem such purchase expedient, any land, property, rights,
8 right-of-ways, franchises, easements and other interests in lands,
9 including lands under water and riparian rights, as it may deem
10 necessary or convenient for the construction and operation of any port
11 or port project, upon such terms and at such price as may be considered
12 by it to be reasonable and can be agreed upon between the commission
13 and the owner thereof, and to take title thereto in the name of the state.

14 (b) The commission is hereby further authorized and empowered to
15 sell, transfer and convey any such land or any interest therein so
16 acquired, or any portion thereof, when the same shall no longer be
17 needed for such purposes. ~~and it~~ **The commission** is further authorized
18 and empowered to transfer and convey any such lands or interest
19 therein as may be necessary or convenient for the construction and
20 operation of any port or port project, or as otherwise required under the
21 provisions of this chapter. ~~Provided, That~~ **article. However,** no such
22 sale shall be made without **first obtaining** the approval of the
23 Governor, ~~first obtained~~ and **a sale may not be made** at ~~not~~ less than
24 the appraised value established by three (3) independent appraisers
25 appointed by the Governor. The commission shall be authorized to
26 restrict the use of any land so sold by it and provide for a reversion to
27 the commission in the event the land shall not be used for the purpose
28 represented by the purchaser, and such restrictions and reversions shall
29 be set out in appropriate covenants in the deeds of conveyance, which
30 deeds shall be subject to the approval of the Governor.

31 (c) The commission shall also be authorized to lease, or grant
32 options to lease, to others for development any portion of the land
33 owned by the commission, on such terms as the commission shall
34 determine to be advantageous. All such leases or options to lease which
35 leases cover a period of more than four (4) years shall be subject to the
36 approval of the Governor. Leases of lands under the jurisdiction or
37 control of the commission shall be made only for such uses and
38 purposes as are calculated to contribute to the growth and development
39 of ~~the port and ports~~, terminal facilities, **and projects** under the
40 jurisdiction or control of the commission. In the event the commission
41 shall lease to others a building or structure financed by the issuance of
42 revenue bonds **under IC 8-10-4**, the rental shall be in an amount at

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1 least sufficient to pay the interest on and principal of the amount of
 2 such bonds representing the cost of such building or structure to the
 3 extent such interest and principal is payable during the term of the
 4 lease, as well as to pay the cost of maintenance, repair and insurance
 5 for such building and a reasonable portion of the commission's
 6 administrative expense incurred during the term of the lease which is
 7 allocable to such building or structure.

8 **(d) No tenant, lessee, licensee, owner of real estate located within**
 9 **a port or project, or other person or entity has any right, claim,**
 10 **title, or interest in any real estate, personal property, or common**
 11 **property owned by the commission, a port, a project, or the state,**
 12 **unless a written agreement entered into by the commission**
 13 **expressly provides:**

14 **(1) the exact nature and extent of the right, claim, title, or**
 15 **interest;**

16 **(2) all the conditions under which the right, claim, title, or**
 17 **interest is granted; and**

18 **(3) a legal or complete description of the specific property.**

19 SECTION 10. IC 8-10-1-11 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is
 21 hereby authorized and empowered to acquire by appropriation, under
 22 the provisions of the eminent domain law of the state, any land,
 23 including lands under water and riparian rights, property, rights,
 24 rights-of-way, franchises, easements or other property necessary or
 25 proper for the construction or the efficient operation of any port or ~~port~~
 26 project. The commission shall also be empowered to exercise such
 27 powers of eminent domain as may be conferred upon the commission
 28 by an act of Congress of the United States now in force, or which may
 29 hereafter be enacted. Title to the property condemned shall be taken in
 30 the name of the state of Indiana. Nothing herein shall authorize the
 31 commission to take or disturb property or facilities constituting all or
 32 part of any presently existing or operating public port and nothing
 33 herein shall authorize the commission to take or disturb property or
 34 facilities belonging to any public utility or to a common carrier engaged
 35 in interstate commerce, which property or facilities are required for the
 36 proper and convenient operation of such public utility or common
 37 carrier, unless provision is made for the restoration, relocation or
 38 duplication of such property or facilities elsewhere at the sole cost of
 39 the commission excepting however, cases in which such equipment or
 40 facilities are located within the limits of existing highways or public
 41 thoroughfares.

42 SECTION 11. IC 8-10-1-12 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and
 2 distinct revolving fund is hereby created, to be known as the Indiana
 3 port fund. Expenditures from said fund shall be made only for the
 4 acquisition of land including lands under water and riparian rights, or
 5 options for the purchase of such land for a port **or project** site, and
 6 incidental expenses incurred in connection with such acquisition, and
 7 for studies in connection with the port **or project**, and including
 8 administrative expenses of the commission. Said fund shall be held in
 9 the name of the Indiana port commission, shall be administered by the
 10 commission, and all expenditures therefrom shall be made by the
 11 commission, subject, however, to the approval by governor and the
 12 state budget committee of all expenditures of moneys advanced to said
 13 fund by the state of Indiana. Requests for such approval shall be made
 14 in such form as shall be prescribed by the budget committee, but
 15 expenditures for acquisition of land including lands under water and
 16 riparian rights, or options for the purchase of such land, shall be
 17 specifically requested and approved as to the land to be acquired and
 18 the amount to be expended. No transfers from said fund to any other
 19 fund of the state shall be made except pursuant to legislative action. All
 20 unexpended funds appropriated to the Indiana board of public harbors
 21 and terminals by Acts 1957, c.286, s.6, are hereby transferred to and
 22 made a part of the Indiana port fund created by this section, and shall
 23 be expended for the purpose and in the manner provided by this
 24 chapter, subject only to the restrictions contained in this chapter and no
 25 others; provided, however, that not to exceed one hundred thousand
 26 dollars (\$100,000) shall be expended for any purpose other than the
 27 acquisition of land, including lands under water and riparian rights, or
 28 options for the purchase of such land for a port **or project** site, and
 29 incidental expenses incurred in connection with such acquisition.

30 (b) Upon the sale of ~~port~~ revenue bonds for any port **or project**, the
 31 funds expended from the Indiana port fund in connection with the
 32 development of such **port or project** and any obligation or expense
 33 incurred by the commission for surveys, preparation of plans and
 34 specifications, and other engineering or other services in connection
 35 with development of such **port or project** shall be reimbursed to the
 36 state general fund from the proceeds of such bonds.

37 SECTION 12. IC 8-10-1-13 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission
 39 is hereby authorized to provide by resolution, at one time or from time
 40 to time, for the issuance of ~~port~~ revenue bonds of the state for the
 41 purpose of paying all or any part of the cost of a port **or project under**
 42 **this chapter or IC 8-10-4.** The principal of and the interest on such

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bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding fifty (50) years from the date thereof, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) All bonds issued under this ~~chapter~~ **article** shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, **except as provided in IC 8-10-4.**

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

SECTION 13. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of

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the port **or** project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port **or** project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds **and any other instruments or the security for the bonds and other instruments that are authorized by this article** may be issued under the provisions of this ~~chapter~~ **article** without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 14. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is hereby authorized to provide by resolution for the issuance of ~~port revenue~~ refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of **section 13 of this chapter or IC 8-10-4-2**, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the commission, for the additional purpose of constructing improvements, extensions, or enlargements of the port **or** project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the commission in respect of the same, shall be governed by the provisions of this ~~chapter~~ **article**



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insofar as the same may be applicable.

SECTION 15. IC 8-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of the commission any bonds issued under the provisions of this act may be secured by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, **except as provided in IC 8-10-4**. Any resolution adopted by the commission providing for the issuance of **revenue** bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the commission except such part as may be necessary to pay the cost of the commission's administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the commission, but the commission shall not convey or mortgage any port ~~port~~ or project or any part thereof, **except for self liquidating projects under IC 8-10-4**. In authorizing the issuance of bonds for any particular port ~~or~~ project, ~~undertaken in connection with the development of the port~~, the commission may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the commission may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port ~~or~~ project on account of which the original bonds were issued, or to provide funds to pay the cost of additional ~~port~~ projects undertaken in connection with the development of the port ~~or~~ project, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the commission pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the

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1 commission. Any such trust agreement or any resolution providing for
 2 the issuance of such bonds may contain such provisions for protecting
 3 and enforcing the rights and remedies of the bondholders as may be
 4 reasonable and proper and not in violation of law, including, but not
 5 limited to, covenants setting forth the duties of the commission in
 6 relation to the acquisition of property and the construction,
 7 improvement, maintenance, repair, operation and insurance of the port
 8 **or** project in connection with which such bonds shall have been
 9 authorized, the rates of fees, tolls, rentals or other charges, to be
 10 collected for the use of the project, and the custody, safeguarding and
 11 application of all moneys, and provisions for the employment of
 12 consulting engineers in connection with the construction or operation
 13 of such project. It shall be lawful for any bank or trust company
 14 incorporated under the laws of the state which may act as depository of
 15 the proceeds of bonds or other funds of the commission, to furnish such
 16 indemnifying bonds or to pledge such securities as may be required by
 17 the commission. Any such trust agreement may set forth the rights and
 18 remedies of the bondholders and of the trustee, and may restrict the
 19 individual right of action by bondholders as is customary in trust
 20 agreements or trust indentures securing bonds or debentures of private
 21 corporations. In addition to the foregoing, any such trust agreement
 22 may contain such other provisions as the commission may deem
 23 reasonable and proper for the security of the bondholders. All expenses
 24 incurred in carrying out the provisions of any such trust agreement may
 25 be treated as a part of the cost of the operation of the port **or** project.

26 SECTION 16. IC 8-10-1-17 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission
 28 shall be authorized to fix, review, charge and collect fees, tolls, rentals
 29 and other charges for the use of the ~~port, port project, ports, projects,~~
 30 terminal facilities and lands under the jurisdiction or control of the
 31 commission or services rendered by the commission, and the aggregate
 32 thereof shall provide revenues at least sufficient to pay the cost of
 33 operation, maintenance and repair of the port **or project** and terminal
 34 facilities, including the administration expenses of the commission, and
 35 in case revenue bonds are issued, sufficient to pay the interest on and
 36 principal of the bonds in accordance with their terms, and also
 37 sufficient to establish and maintain reserves created for all such
 38 purposes and for depreciation purposes. The fixing and collection of
 39 such fees, tolls, rentals and other charges and the expenditure of the
 40 revenues derived therefrom shall not be subject to the supervision or
 41 regulation by any other officer, commission, board, bureau or agency
 42 of the state. After such bonds have been fully paid and discharged and



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1 all obligations under any trust agreement securing the same have been
 2 performed or satisfied, any remaining surplus net revenues and all
 3 surplus net revenues thereafter derived from the operation of ~~such the~~
 4 port **or project** shall be paid into the state general fund.

5 SECTION 17. IC 8-10-1-19 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of
 7 bonds issued under the provisions of this chapter or any of the coupons
 8 appertaining thereto, and the trustee under any trust agreement, except
 9 to the extent the rights given in this chapter may be restricted by the
 10 authorizing resolution or trust agreement, may, either at law or in
 11 equity, by suit, action, mandamus, or other proceedings, protect and
 12 enforce any and all rights under the statutes of the state or granted
 13 under this chapter or under such trust agreement, or the resolution
 14 authorizing the issuance of such bonds, and may enforce and compel
 15 the performance of all duties required by this chapter or by such trust
 16 agreement or resolution to be performed by the commission or by any
 17 officer thereof, including the fixing, charging, and collecting of fees,
 18 tolls, rentals, or other charges for the use of the port or ~~port~~ project.

19 SECTION 18. IC 8-10-1-20 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~
 21 project, as defined in section 2 of this chapter, when constructed and
 22 ~~opened to traffic~~ **placed in operation** shall be maintained and kept in
 23 good condition and repair by the commission. Each such project shall
 24 also be policed and operated by such force of police, tolltakers, and
 25 other operating employees as the commission may in its discretion
 26 employ. All public or private property damaged or destroyed in
 27 carrying out the powers granted by this chapter shall be restored or
 28 repaired and placed in its original condition as nearly as practicable or
 29 adequate compensation made therefor out of funds provided under the
 30 authority of this chapter.

31 SECTION 19. IC 8-10-1-21 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities,
 33 towns, townships and other political subdivisions and all public
 34 agencies and commissions of the state, notwithstanding any contrary
 35 provision of law, are hereby authorized and empowered to lease, lend,
 36 grant or convey to the commission at its request upon such terms and
 37 conditions as the proper authorities of such counties, cities, towns,
 38 townships, other political subdivisions or public agencies and
 39 commissions of the state may deem reasonable and fair and without the
 40 necessity for an advertisement, order of court or other action or
 41 formality, other than the regular and formal action of the authorities
 42 concerned, any real **or personal** property owned by any such

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1 municipality or governmental subdivision which may be necessary or
 2 convenient to the effectuation of the authorized purposes of the
 3 commission.

4 SECTION 20. IC 8-10-1-22 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The commission
 6 shall cause an audit of its books and accounts to be made at least once
 7 each year by certified public accountants and the cost thereof may be
 8 treated as a part of the cost of construction or of operations of the
 9 ~~project.~~ **commission's ports and projects.** The accounts, books and
 10 records of the Indiana port commission shall be audited annually by the
 11 state board of accounts, and the cost of such audit may be treated as a
 12 part of the cost of construction or of operations of the ~~port project.~~
 13 **commission's ports and projects.**

14 (b) **The commission shall, following the close of each fiscal year,**
 15 **submit an annual report of its activities for the preceding year to**
 16 **the governor. Each member of the general assembly shall receive**
 17 **a copy of such report by making a request for it to the chairman of**
 18 **the commission. Each report shall set forth a complete operating**
 19 **and financial statement for the commission during the fiscal year**
 20 **it covers.**

21 SECTION 21. IC 8-10-1-25 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds
 23 issued by the commission under the provisions of this ~~chapter~~ **article**
 24 shall constitute legal investments for any private trust funds, and the
 25 funds of any banks, trust companies, insurance companies, building
 26 and loan associations, credit unions, banks of discount and deposit,
 27 savings banks, loan and trust and safe deposit companies, rural loan
 28 and savings associations, guaranty loan and savings associations,
 29 mortgage guaranty companies, small loan companies, and industrial
 30 loan and investment companies, and any other financial institutions
 31 organized under Indiana statutes. **The bonds are also made securities**
 32 **that may be deposited with and received by all public officers and**
 33 **bodies of this state or any agency or political subdivisions of this**
 34 **state and all municipalities and public commissions for any**
 35 **purpose for which the deposit of bonds or other obligations of this**
 36 **state is now or may be later authorized by law.**

37 SECTION 22. IC 8-10-1-27 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of
 39 the powers granted by this ~~chapter~~ **article** will be in all respects for the
 40 benefit of the people of the state, for the increase of their commerce
 41 and prosperity, and for the improvement of their health and living
 42 conditions.



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(b) As the operation and maintenance of a port ~~or~~ project by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any port ~~or~~ project or any property acquired or used by the commission under the provisions of this ~~chapter~~ **article** or upon the income therefrom. The bonds issued by the commission, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the commission is exempt from property taxation. **However, an exemption under this subsection is not available for land not located at a port.**

SECTION 23. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. The state hereby pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.**

SECTION 24. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, whenever it finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the commission further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~



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project. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the commission shall have all the powers granted to it by this article, in connection with a ~~port~~ project, and the term "~~port~~" "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the Indiana port commission to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The Indiana port commission shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 25. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "self-liquidating ~~port~~ project" shall mean a ~~port~~ project for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of such bonds to be issued to finance the cost of such ~~port~~ project and further providing for the payment by the lessee or lessees of all costs of maintenance, repair, and insurance of such ~~port~~ project.

(b) Other words and terms used in this chapter shall have the same meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 26. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating ~~port~~ project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(a) The revenue bonds issued by the commission to finance the cost of such self-liquidating ~~port~~ project may be issued without regard to any maximum interest rate limitation in this article or any other law.

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(b) The revenue bonds issued by the commission to finance the cost of such self-liquidating ~~port~~ project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

(c) IC 4-13.6, IC 5-16 (other than IC 5-16-7), IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to projects to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project. However, the commission and the private party must comply with IC 5-16-7.

SECTION 27. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a ~~port~~ project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 28. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any ~~port~~ project may include, instead of the cost of the acquisition of the land constituting the site of such ~~port~~ project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 29. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any ~~port~~ project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the ~~port~~ project.

SECTION 30. IC 8-10-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The following provisions apply to this chapter:**

- (1) IC 8-10-1-4.**
- (2) IC 8-10-1-10.**
- (3) IC 8-10-1-13.**
- (4) IC 8-10-1-14.**
- (5) IC 8-10-1-15.**



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- (6) IC 8-10-1-16.
- (7) IC 8-10-1-19.
- (8) IC 8-10-1-25.
- (9) IC 8-10-1-27.
- (10) IC 8-10-1-30.

SECTION 31. IC 8-16-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) This section applies only to a bridge that:

- (1) was constructed under this chapter **or was acquired under this chapter and IC 8-16-15;** and
- (2) crosses the Wabash River.

(b) Notwithstanding any other provisions of this chapter, a bridge subject to this section does not become a part of the system of state highways free of tolls or a tollway under IC 8-15-3 when bonds are retired and all funds fully reimbursed.

(c) Money collected for the use of a bridge subject to this section shall be allocated to the authority and used for the following purposes:

- (1) Operation of ~~the a~~ toll bridge facility **described in subsection (a).**
- (2) Maintenance of ~~the a~~ toll bridge facility **described in subsection (a).**
- (3) ~~A reserve fund for future toll bridges over the Ohio River to be located within the same county in which the bridge subject to this section is located.~~

(3) The acquisition of a bridge described in IC 8-16-15.

SECTION 32. IC 8-16-15-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. Notwithstanding sections 1 and 2 of this chapter, the Indiana transportation finance authority is not required to purchase the bridge described in section 1 of this chapter unless the Indiana transportation finance authority determines that at least three million one hundred thousand dollars (\$3,100,000) of federal funding has been made available for the following purposes:**

- (1) Immediate repairs necessary to keep the bridge in operation.
- (2) Short term repairs necessary to extend the bridge's useful life for five (5) to ten (10) years.
- (3) Annual operating expenses for the remainder of the bridge's useful life.

SECTION 33. IC 8-16-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Subject to the



provisions of this chapter and IC 8-16-1, the department is hereby authorized and empowered to Indiana transportation finance authority shall enter into negotiations with the proper authority having control of the state highways of the state of Illinois, and with the owners of the bridge which that spans the Wabash River and over which State Highway No. 66 passes from this state Indiana into the state of Illinois, for the purpose of acquiring the ownership of and title to such the bridge jointly, by the state of Illinois and in the name of the state of Indiana.

SECTION 34. IC 8-16-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. If the proper authorities of the state of Illinois are empowered by the laws of the state of Illinois to enter into such negotiations, and if the department and the authority having charge of the state highways of the state of Illinois can agree with the owners of such bridge on the purchase-price of such bridge, then and in that event the department is hereby authorized and empowered to acquire the ownership of and the title to such bridge, jointly, with the state of Illinois, to pay not to exceed fifty percent (50%) of (a) The Indiana transportation finance authority shall pay the purchase price agreed upon under section 1 of this chapter out of any funds appropriated to the department which might otherwise be used for the construction of bridges, and to available to the authority.

(b) The Indiana transportation finance authority may enter into such agreements with the proper authorities of the state of Illinois as may be fair and equitable for the repair, maintenance, and upkeep of such the bridge and to expend such amounts of the money as may be necessary to maintain such the bridge.

(c) After acquiring the bridge described in section 1 of this chapter, the Indiana transportation finance authority shall operate and maintain the bridge under IC 8-16-1.

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SENATE MOTION

Mr. President: I move that Senator Rogers be added as second author of Senate Bill 454.

KENLEY

SENATE MOTION

Mr. President: I move that Senators Broden and Ford be added as coauthors of Senate Bill 454.

KENLEY

SENATE MOTION

Mr. President: I move that Senators Simpson and Lubbers be added as coauthors of Senate Bill 454.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill No. 454, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 3, line 4, delete ", whether".
- Page 3, line 4, delete "at a port or elsewhere".
- Page 3, line 5, after "Indiana," insert "**other than at a port,**".
- Page 7, line 40, delete "To lend the proceeds of any revenue bonds to a borrower".
- Page 7, delete lines 41 through 42.
- Page 8, delete lines 1 through 4.
- Page 8, line 5, delete "(8)".
- Run in page 7, line 40, and page 8, line 5.
- Page 8, line 10, reset in roman "(8)".
- Page 8, line 10, delete "(9)".
- Page 8, line 13, reset in roman "(9)".
- Page 8, line 13, delete "(10)".
- Page 8, line 16, reset in roman "(10)".
- Page 8, line 16, delete "(11)".
- Page 8, line 19, reset in roman "(11)".
- Page 8, line 19, delete "(12)".
- Page 8, line 22, reset in roman "(12)".
- Page 8, line 22, delete "(13)".
- Page 9, line 4, delete "(14)" and insert "**(13)**".
- Page 9, line 10, delete "(15)" and insert "**(14)**".
- Page 9, line 19, delete "(16)" and insert "**(15)**".
- Page 9, line 25, delete "(17)" and insert "**(16)**".
- Page 9, line 27, delete "(18)" and insert "**(17)**".
- Page 9, line 29, delete "(19)" and insert "**(18)**".
- Page 15, line 23, delete "section 16.5 of this chapter." and insert "**IC 8-10-4.**".
- Page 18, delete lines 13 through 37.
- Page 21, line 27, delete "or project".
- Page 21, line 28, after "." insert "**However, an exemption under this subsection is not available for land not located at a port.**".
- Page 22, line 11, strike "port".
- Page 22, line 12, delete "or".
- Page 22, line 17, after "a" strike "port".
- Page 22, line 17, after "a port" delete "or".



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Page 22, line 17, reset in roman "term".

Page 22, line 17, delete "terms".

Page 22, line 17, strike ""port"".

Page 22, line 17, after ""port"" delete "and".

Page 22, after line 32, begin a new paragraph and insert:

"SECTION 25. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "self-liquidating port project" shall mean a port project for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of such bonds to be issued to finance the cost of such port project and further providing for the payment by the lessee or lessees of all costs of maintenance, repair, and insurance of such port project.

(b) Other words and terms used in this chapter shall have the same meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 26. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating port project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(a) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(b) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

SECTION 27. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 28. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port project may include, instead of the cost of the acquisition of the land

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constituting the site of such ~~port~~ project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 29. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any ~~port~~ project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the ~~port~~ project."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 454 as introduced.)

FORD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred Senate Bill 454, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 30, strike "and".

Page 3, line 37, delete "." and insert "; **and**".

Page 3, line 38, delete "(e) Any", begin a new line block indented and insert:

"(13) any".

Page 4, line 4, reset in roman "(e)".

Page 4, line 4, delete "(f)".

Page 4, line 8, reset in roman "(f)".

Page 4, line 8, delete "(g)".

Page 4, line 11, strike "chapter," and insert "**article**".

Page 4, line 14, reset in roman "(g)".

Page 4, line 14, delete "(h)".

Page 4, line 23, strike "chapter" and insert "**article**".

Page 5, line 16, strike "chapter," and insert "**article**".

Page 5, line 39, strike "chapter" and insert "**article**".

Page 5, line 40, strike "chapter" and insert "**article**".

Page 5, line 42, strike "chapter." and insert "**article**".

Page 6, line 3, strike "chapter" and insert "**article**".

Page 6, line 7, strike "chapter," and insert "**article**".

Page 6, line 15, strike "chapter" and insert "**article**".

Page 6, line 16, after "of this" strike "chapter" and insert "**article**".

Page 6, line 16, after "in this" strike "chapter" and insert "**article**".

Page 6, line 19, after "thereof." insert "**Except as specifically authorized by the general assembly, the commission may not pledge, in any form, to:**

(1) seek funding from the state in the event of any default in the payment of revenue bonds; or

(2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds;

if the revenue bonds or agreement relate to a project that is not part of a project related to property that qualifies as a port under section 2(b)(1) of this chapter."

Page 8, line 12, after "or" strike "port".

Page 9, line 8, strike "However, the employment of an".

Page 9, strike lines 9 through 10.

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Page 9, line 20, strike "chapter."

Page 9, line 20, after "and" insert "**article.**".

Page 9, line 23, after "commission." insert "**However, this subdivision does not authorize the commission to include any language in a revenue bond that would create a moral obligation on the part of the state to pay any part of the obligation related to a project that is not part of a project related to property that qualifies as a port under section 2(b)(1) of this chapter in the event of a default by the commission.**".

Page 10, line 7, strike "chapter," and insert "**article,**".

Page 12, line 2, strike "chapter."

Page 12, line 2, after "That" insert "**article.**".

Page 12, line 23, after "bonds" insert "**under IC 8-10-4,**".

Page 14, line 22, delete "." and insert "**under this chapter or IC 8-10-4.**".

Page 15, line 5, strike "chapter" and insert "**article**".

Page 15, line 17, delete "chapter" and insert "**article**".

Page 15, line 19, delete "chapter." and insert "**article.**".

Page 16, line 2, delete "chapter" and insert "**article**".

Page 16, line 3, strike "chapter" and insert "**article**".

Page 16, line 13, delete "," and insert "**or IC 8-10-4-2,**".

Page 16, line 22, strike "chapter" and insert "**article**".

Page 16, line 29, delete "." and insert ", **except as provided in IC 8-10-4.**".

Page 16, line 38, delete "." and insert ", **except for self liquidating projects under IC 8-10-4.**".

Page 20, line 2, strike "chapter" and insert "**article**".

Page 20, line 18, strike "chapter" and insert "**article**".

Page 20, line 26, strike "chapter" and insert "**article**".

Page 21, line 1, delete "chapter" and insert "**article**".

Page 22, between lines 27 and 28, begin a new line block indented and insert:

"(c) IC 4-13.6, IC 5-16 (other than IC 5-16-7), IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to projects to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project. However, the commission and the private party must comply with IC 5-16-7."

Page 23, after line 8, begin a new paragraph and insert:

"SECTION 30. IC 8-10-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The following provisions apply to this chapter:

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- (1) IC 8-10-1-4.
- (2) IC 8-10-1-10.
- (3) IC 8-10-1-13.
- (4) IC 8-10-1-14.
- (5) IC 8-10-1-15.
- (6) IC 8-10-1-16.
- (7) IC 8-10-1-19.
- (8) IC 8-10-1-25.
- (9) IC 8-10-1-27.
- (10) IC 8-10-1-30.

SECTION 31. IC 8-16-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) This section applies only to a bridge that:

- (1) was constructed under this chapter **or was acquired under this chapter and IC 8-16-15**; and
- (2) crosses the Wabash River.

(b) Notwithstanding any other provisions of this chapter, a bridge subject to this section does not become a part of the system of state highways free of tolls or a tollway under IC 8-15-3 when bonds are retired and all funds fully reimbursed.

(c) Money collected for the use of a bridge subject to this section shall be allocated to the authority and used for the following purposes:

- (1) Operation of ~~the a~~ toll bridge facility **described in subsection (a)**.
- (2) Maintenance of ~~the a~~ toll bridge facility **described in subsection (a)**.
- (3) ~~A reserve fund for future toll bridges over the Ohio River to be located within the same county in which the bridge subject to this section is located.~~
- (3) **The acquisition of a bridge described in IC 8-16-15.**

SECTION 32. IC 8-16-15-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. Notwithstanding sections 1 and 2 of this chapter, the Indiana transportation finance authority is not required to purchase the bridge described in section 1 of this chapter unless the Indiana transportation finance authority determines that at least three million one hundred thousand dollars (\$3,100,000) of federal funding has been made available for the following purposes:**

- (1) Immediate repairs necessary to keep the bridge in operation.
- (2) Short term repairs necessary to extend the bridge's useful



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life for five (5) to ten (10) years.

(3) Annual operating expenses for the remainder of the bridge's useful life.

SECTION 33. IC 8-16-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Subject to the provisions of this chapter and **IC 8-16-1**, the department is hereby authorized and empowered to **Indiana transportation finance authority shall** enter into negotiations with the proper authority having control of the state highways of the state of Illinois, and with the owners of the bridge ~~which that~~ spans the Wabash River and over which State Highway No. 66 passes from ~~this state~~ **Indiana** into the state of Illinois, for the purpose of acquiring the ownership of and title to ~~such the~~ bridge jointly, by the state of Illinois and in the name of the state of Indiana.

SECTION 34. IC 8-16-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. If the proper authorities of the state of Illinois are empowered by the laws of the state of Illinois to enter into such negotiations, and if the department and the authority having charge of the state highways of the state of Illinois can agree with the owners of such bridge on the purchase-price of such bridge, then and in that event the department is hereby authorized and empowered to acquire the ownership of and the title to such bridge, jointly, with the state of Illinois, to pay not to exceed fifty percent (50%) of (a) **The Indiana transportation finance authority shall pay** the purchase price agreed upon **under section 1 of this chapter** out of any funds appropriated to the department which might otherwise be used for the construction of bridges, and to ~~available to~~ **the authority.**

(b) The Indiana transportation finance authority may enter into ~~such~~ agreements with the proper authorities of the state of Illinois as may be fair and equitable for the repair, maintenance, and upkeep of ~~such the~~ bridge and to expend ~~such amounts of the~~ money as may be necessary to maintain ~~such the~~ bridge.

(c) After acquiring the bridge described in section 1 of this chapter, the Indiana transportation finance authority shall operate and maintain the bridge under IC 8-16-1."

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 454 as printed February 19, 2003.)

KROMKOWSKI, Chair

Committee Vote: yeas 9, nays 2.

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